



PATENT
81206-306044

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)	Art Unit: 3736
)	
L. MICHAEL CUTRER)	Examiner: JOHN P. LACYK
)	
Serial No.: 10/692,223)	
)	
Filed: OCTOBER 23, 2003)	
)	
For: RADIOACTIVE SEED WITH)	
MULTIPLE MARKERS AND METHOD)	
FOR USING SAME)	
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TERMINAL DISCLAIMER

APPLICATION / PATENT FAMILY

The above-identified U.S. patent application serial No. 10/692,223 ("the '223 application"), filed October 23, 2003, is a continuation of application serial No. 10/271,270 ("the '270 application"), filed October 15, 2002, now U.S. Patent No. 6,638,207 ("the '207 patent"); the '270 application, in turn, is a divisional of application serial No. 09/280,097 ("the '097 application"), filed March 29, 1999, now U.S. Patent No. 6,503,186 ("the '186 patent"); and the '097 application, in turn, is a continuation-in-part of application serial No. 08/904,695 (the "'695 application"), filed August 1, 1997, now abandoned.

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Additionally, U.S. Patent No. 6,440,058 (“the ‘058 patent”) matured from application serial No. 09/648,849 (“the ‘849 application”), filed August 25, 2000, which is a continuation-in-part of the above-noted ‘097 application.

Thus, both the ‘207 patent and the ‘058 patent matured, respectively, from applications that were filed as continuing-type applications of the ‘097 application.

OWNERSHIP

Your Petitioner, NORTH AMERICAN SCIENTIFIC, Inc., having its principal place of business at 20200 Sunburst Street, Chatsworth, CA 91311, represents that it is the assignee of the entire right, title, and interest in and to: (1) the ‘223 application, filed October 23, 2003; (2) the ‘270 application, filed October 15, 2002 (now, the ‘207 patent); and (3) the ‘849 application, filed August 25, 2000 (now, the ‘058 patent). The ownership is evidenced by the recording of the assignment for the ‘097 application in the United States Patent and Trademark Office on July 19, 1999, at Reel 010099, Frame 0375. The assignment documents have been reviewed, and NORTH AMERICAN SCIENTIFIC, Inc. certifies that to the best of its knowledge and belief, title to each of the ‘097 application, the ‘223 application, the ‘207 patent, and the ‘058 patent is in NORTH AMERICAN SCIENTIFIC, Inc. (37 C.F.R. 3.73(b)).

TERMINAL DISCLAIMER

NORTH AMERICAN SCIENTIFIC, INC. hereby disclaims the terminal part of any patent granted on the ‘223 application which would extend beyond the date of the full statutory term of the ‘207 patent or the ‘058 patent. NORTH AMERICAN SCIENTIFIC, Inc. hereby agrees that any patent so granted on the ‘223 application shall be enforceable only for and during such period that

the legal title to said patent shall be held by the same entity holding the legal title to (a) the '207 patent; and (b) the '058 patent. This agreement is to run with any patent granted on the '223 application and to be binding upon the grantee, its successors, or assigns.

NORTH AMERICAN SCIENTIFIC, Inc. does not disclaim the terminal part of any patent granted on the '223 application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 and 173 of the '207 patent or the '058 patent in the event that any of such patents later: expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321(a); has all claims canceled by a reexamination certificate; is reissued; or is otherwise terminated prior to expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby aver that I have the authority of NORTH AMERICAN SCIENTIFIC, Inc. to make all statements, representations, and agreements set forth herein and that I am empowered to sign this document on behalf of NORTH AMERICAN SCIENTIFIC, Inc.

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Terminal disclaimer fee under 37 CFR 1.20(d) is charged on the accompanying cover sheet (PAT-120). Should it be missing or inadequate, please charge our Deposit Account No. 16-1805 under Order No. 81206/306044.

Respectfully submitted,

PILLSBURY WINTHROP LLP

Date: September 23, 2004

By:



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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 110.00

Complete if Known

Application Number 10/692,223
Filing Date October 23, 2003
First Named Inventor L. MICHAEL CUTRER
Examiner Name JOHN P. LACYK
Art Unit 3736
Attorney Docket No. 81206-306044

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit
Account
Number
Deposit
Account
Name

161805

PILLSBURY WINTHROP LLP

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1) (\$)					0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims						
Independent Claims	4	-20** =	0	X		0
Multiple Dependent	2	-3** =	-1	X		0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify) Terminal Disclaimer					110.00
*Reduced by Basic Filing Fee Paid					
SUBTOTAL (3) (\$)					110.00

SUBMITTED BY

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Date September 23, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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